

(4) For purposes of paragraph (c) of this section, the information requested was not designated by the submitter as exempt from disclosure when the submitter had an opportunity to make such designation at the time of submission of the information or within a reasonable time thereafter, unless;

(i) The Agency has substantial reason to believe that disclosure of the information would result in competitive harm; or

(ii) The designation made by the submitter appears obviously frivolous; except that, in such case, the Agency must provide the submitter with written notice of any final administrative disclosure determination within a reasonable number of days prior to the specified disclosure date.

Subpart E—Exemptions From Disclosure

§ 212.41 Exemptions from publication and disclosure requirements of subparts B, C, and D.

None of the provisions of subparts B, C, and D which provide for publication and disclosure of certain information and records shall be applicable to matters that are:

(a) Specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order;

(b) Related solely to the internal personnel rules and practices of the Agency;

(c) Specifically exempted from disclosure by statute;

(d) Trade secrets and commercial or financial information obtained from a person and privileged and confidential;

(e) Interagency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(f) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(g) Records or information compiled for law enforcement purposes, but only to the extent that the production of

such law enforcement records or information:

(1) Would reasonably be expected to interfere with enforcement proceedings;

(2) Would deprive a person of a right to a fair trial or an impartial adjudication;

(3) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(4) Could reasonably be expected to disclose the identity of a confidential source, including a State, local or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful security intelligence investigation, information furnished by a confidential source;

(5) Would disclose techniques and procedure for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(6) Could reasonably be expected to endanger the life or physical safety of any individual.

(h) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions; and

(i) Geological and geophysical information and data (including maps) concerning wells.

§ 212.42 Exemption from 5 U.S.C. 552.

Whenever a request is made which involves access to records described in paragraph (g) of § 212.41 and the investigation or proceedings involves a possible violation of criminal law; and there is reason to believe that the subject of the investigation or proceeding is not aware of its pendency, and disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings, the Agency may, during only such time as that circumstances continues, treat the records as not subject to the requirements of 5 U.S.C. 552 and this subpart.